

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
CHARLES COURT,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 1049

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

A formal hearing of the appeal of a \$250.00 civil penalty resulting from five separate Notices of Violation came on before Board member Chris Smith on December 1, 1976, at Everett, Washington. Appellant Charles Court appeared pro se; respondent appeared by and through its attorney, Keith D. McGoffin.

Having heard or read the evidence, and having examined the exhibits, the Board makes the following

1 FINDINGS OF FACT

2 I

3 Pursuant to RCW 43.21B.260 respondent has filed a certified copy
4 of its Regulation I and amendments thereto, which we notice.

5 II

6 On June 16, 1976, appellant's agent, Mr. Bruce, applied for a permit
7 for an outdoor fire from the Bothell Fire Department. While there,
8 Mr. Bruce offered to let the fire department burn the material for a
9 fire drill, which offer was declined. At this time he was told that he
10 could only burn natural vegetation and was given a permit for such
11 burning. He was also given a copy of the Puget Sound Air Pollution
12 Control Agency rule sheet, which he did not read.

13 III

14 At about 3:00 p.m. on June 16, 1976, a large amount of paper from
15 appellant Court's warehouse was pushed into a pile (about 30 feet by
16 30 feet) and lit by Mr. Bruce.

17 The resultant fire was large. Although the wind was negligible when
18 the fire was started, the direction and speed changed about 6:00 p.m.

19 IV

20 In response to five separate calls reporting airborne debris from
21 the fire, the fire department arrived at the scene and deemed the fire
22 an extreme hazard. Appellant Court thereafter caused the burning paper
23 to be pushed over a nearby bank while the fire department attempted to
24 douse the fire. At this time the fire was about 200 feet long and 12
25 feet wide. After two to three hours, the hazard abated, although the fire
26 continued to smolder the next day.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 V

2 When the wind changed direction and speed, the fire caused ash
3 and debris to fall upon the real property of others. Appellant Court
4 attempted to recover the debris from the neighbors' yards. Puget Sound
5 Air Pollution Control Agency's inspector, who arrived at the scene
6 about 9:30 p.m., observed the fire and saw debris from the fire landing
7 500 feet from its source.

8 VI

9 Appellant Court's fire contained paper, wire and lumber.

10 VII

11 On June 17, 1976, at about 9:40 a.m., respondent's inspector saw
12 gray emissions from the remains of the outdoor fire. He recorded
13 observations ranging from Ringelmann No. 3 to Ringelmann No. 5 for a
14 period of six consecutive minutes.

15 VIII

16 For the foregoing event, appellant Court was issued five Notices
17 of Violation and a civil penalty for a combined total of \$250.00.
18 Appellant was cited for the violation of the following provisions as a
19 result of his activities on June 16 and 17.

20 Section 9.03(b) makes unlawful the emission of any air contaminant
21 for a period exceeding three minutes in any one hour which is darker in
22 shade than Ringelmann No. 1 (20% density).

23 Section 9.04 makes unlawful the discharge of particulate matter
24 upon the real property of others.

25 Section 9.11(a) makes unlawful the emission of an air contaminant
26 not otherwise prohibited by PSAPCA's regulations, which is detrimental
27 to the health, safety or welfare of any person or causes damage to

1 affirmed.

2 III

3 Appellant did not violate Section 9.11(a) of respondent's
4 Regulation I. The \$50.00 civil penalty assessed based upon such alleged
5 violation should be vacated.

6 IV

7 The \$250.00 civil penalty should be reduced to \$200.00.

8 V

9 Any Finding of Fact which should be deemed a Conclusion of Law
10 is hereby adopted as such.

11 From these Conclusions the Pollution Control Hearings Board
12 enters this

3 ORDER

14 The \$250.00 civil penalty is reduced to \$200.00 and affirmed.

15 POLLUTION CONTROL HEARINGS BOARD

16 Art Brown
17 ART BROWN, Chairman

18 (Did not participate)
19 W. A. GISSBERG, Member

20 Chris Smith
21 CHRIS SMITH, Member

22 DATED January 20, 1977.

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27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER